IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9879 of 1994

For Approval and Signature:

HON'BLE MR. JUSTICE ANANT S DAVE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

CHANDRIKABEN CHHAGANLAL NAIK

Versus

DIST PRIMARY EDUCATION OFFICER

Appearance:

1. Special Civil Application No. 9879 of 1994

MR KB PUJARA for Petitioner No. 1

MR HS MUNSHAW for Respondent No. 1

NOTICE SERVED for Respondent No. 2-4

Mrs. Manisha L. Shah, AGP for Respondent No. 5

CORAM : HON'BLE MR. JUSTICE ANANT S DAVE

Date of decision: 20/10/2004

ORAL JUDGEMENT

1. The petitioner, in this writ petition under

Article 226 of the Constitution of India, has prayed for issuance of a writ of mandamus to quash and set aside the illegal action of the District Primary Education Officer, Gandhinagar, respondent No.1 herein, in cancelling all the applications for inter-district transfer on 17th August 1992 and inviting fresh applications by letter dated 3rd May 1994 (Annexure "J" to the petition).

2. The petitioner has contended that the action of the respondent No.1 cancelling the earlier application for inter-district transfer is arbitrary and unreasonable and the petitioner, being in priority, is deprived of her right to be placed in Gandhinagar District. She has further contended that the District Education Committee, Banaskantha, where the petitioner was serving, had decided to transfer the petitioner by its Resolution No.528 and a proposal was forwarded by the DPEO, Banaskantha, to the respondent No.1 and the application of the petitioner was registered by the office of the respondent No.1 vide inward No.324. Thereafter, the respondent No.1 ignored all the applications received prior to 31.12.1989 and resolved to effect 73 transfers unlawfully and illegally ignoring the case of the petitioner. It seems that, thereafter, the petitioner made several representations and, thereafter, the respondent No.1 informed that all the applications received stood cancelled and, being aggrieved by the order at Annexure "J", the petitioner has filed this petition with the prayer as mentioned above.

3. This Court, by order dated 24th November 1994, issued Rule and granted interim relief in terms of paragraph 10(h) (as amended), which reads as under:
"Pending admission, hearing and final disposal of this petition, be pleased to direct the respondents Nos. 1, 2 and 3 to effect the inter-district transfers of teachers in Gandhinagar District strictly in order of priority and from the applications received on or after 3.5.1994 as invited by letter at Annexure "J"."
Therefore, as per the interim direction, no other teacher could have been transferred ignoring the case of the petitioner and about ten years have lapsed and no further grievance is made before this Court either by way of amendment or filing a Civil Application as to whether the claim of the petitioner is not taken into consideration or that her claim is ignored by the Authorities. However, the fact remains that the petitioner is protected by the interim order dated 24th November 1994.

4. In the facts and circumstances of the case, Rule is made absolute in terms of the ad-interim relief

granted by this Court by order dated 24th November 1994.
There shall be no order as to costs.

(Anant S. Dave, J.)
(swamy)